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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/297,406	04/29/1999	CHRISTOPH HEILAND	KKF1P005	9723

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EXAMINER
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BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 04/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/297,406

Applicant(s)

HEILAND, CHRISTOPH

Examiner

James R. Brittain

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MLW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12 and 33-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 April 1999 and 12 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Allowable Subject Matter***

The indicated allowability of claims 12 and 33-35 is withdrawn in view of the newly discovered reference(s) to Parmenter (US 3818553) and Brown (US 5301393). Rejections based on the newly cited reference(s) follow.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The act of “stamping predetermined breaking points into said length of extruded plastic” (claim 12, line 5) lacks antecedent basis in the specification.

### ***Drawings***

The proposed drawing correction received January 12, 2004 is approved and corrected drawings are required in reply to the office action. The drawings submitted April 29, 1999 and January 12, 2004 are not acceptable for the reasons given on the attached Form PTO-948 and those objections are incorporated herein. Corrected drawings or proposed corrected drawings addressing the objections are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Objections***

Claim 12 is objected to because of the following informalities: The claim appears to end with a semi-colon rather than a period. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

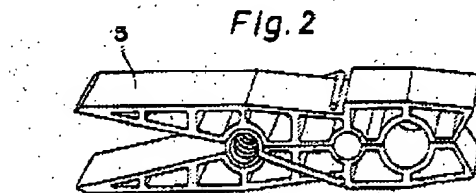
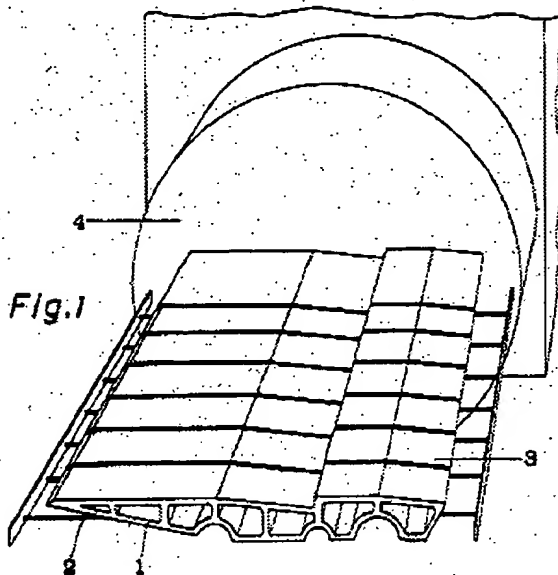
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Eugenio (US 3832757) in view of Parmenter (US 3818553).

D'Eugenio (figures 1, 2, reproduced below) teaches a process for manufacturing clamping devices, comprising the acts of extruding a length of plastic with hollow chamber profiles to form a multiplicity of clamping devices 1; severing the clamping devices from the extruded length in desired widths and after the extrusion step, applying a biasing force, the biasing force generated in a calibration zone wherein the coil spring is applied to the half-profiles, which causes the grip jaws of the clamping devices to lie adjacent to each other in a biased state (col. 2, lines 3-21, reproduced below). The only order to the steps is that which is inherently required, i.e. both the stamping and applying of the biasing force occurs after the extrusion step. The claim requires no order relative to each other of the three steps comprising stamping, applying of the biasing force or the severing of the clamping devices, beyond the inherent requirement that the severing step take place after the stamping step.

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As shown in FIG. 1, the clothes-pin elements 1 are produced by transversely cutting an extruded strip 3 of plastics material, for example, by means of a hot wire multiple cutter 2 the wires of which may be heated, for example, by electric current, the extruded strip 3 having the profile of a clothes-pin element and being extruded by an extruder 4.

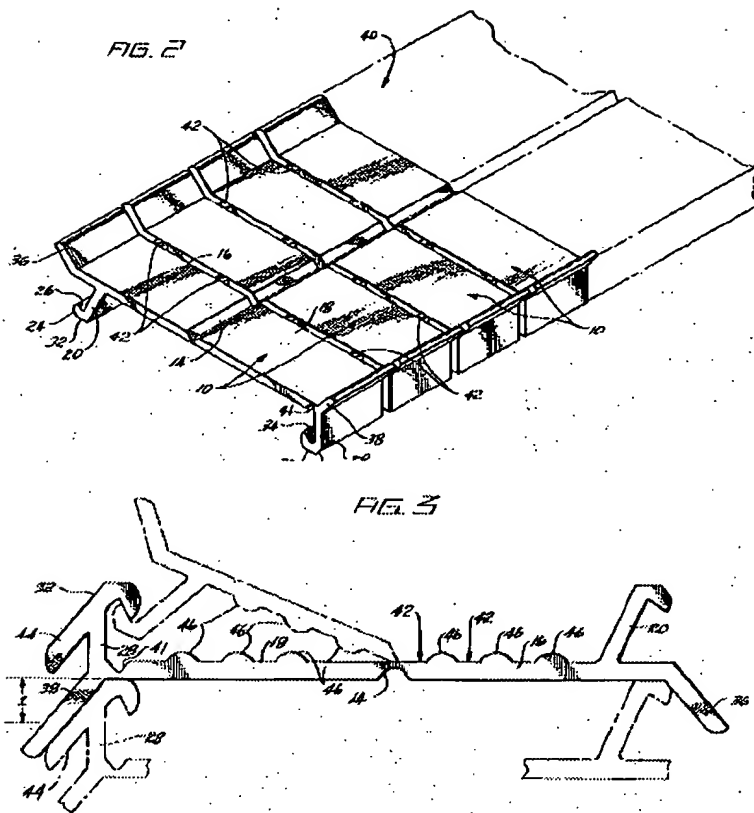
In the illustrated embodiment the clothes-pin element 1 has a reticulate grid-like structure with a plurality of profiled recesses which reduce its weight and increase its resilience as well as its strength and permit to save a considerable amount of plastics material.

During cutting of the plastics material by the hot wire cutter the plastics material is softened and tends to form thickened seams at the edges of the cut clothes-pin element, the seams having the form of ribs which add to the bending strength of the clothes-pin elements.

When the elements 1 are assembled in opposed pairs a complete clothes-pin 5 is formed, as shown in FIG. 2.

The difference is that there is no stamping of predetermined breaking points into the length of extruded plastic. However, Parmenter (figures 2, 3, reproduced below) teaches a similar process for manufacturing clamping devices, comprising the acts of extruding a length of plastic to form a multiplicity of clamping devices 10; stamping predetermined break points into the length of extruded plastic; and severing the clamping devices from the extruded length in desired widths and after the extrusion step when used in a bagging machine (col. 3, lines 3-29, reproduced below).

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A primary use of the flanges is to facilitate use of the closure clip in automatic bagging machines. As shown in FIG. 2, bag closure 10 can be extruded in a continuous strip 40. After extrusion, the strip may be stamped out to form the individual closure clips 10 which are held together by tabs 42. Alternately, strip 40 can be continuous. Strip 40 has lateral flexibility which permits it to be rolled in a coil for storage and dispensing in an automatic bagging machine (not shown). FIG. 1 illustrates a cross-sectional view of the strip rolled in a coil, showing how each layer of the strip fits together with adjoining layers. The adjacent layers of the strip when rolled in a coil are represented in phantom line at 10a, 10b, and 10c of FIG. 1. The top edge and beveled edge of each hook nests snugly in the V-shaped channel formed above it by the intersection of the hook's corresponding flange and the bottom edge of base 12. This engagement of the hooks and flanges aligns adjacent layers of the roll and prevents them from slipping laterally relative to each other. In this way, the strip can be kept in continuous alignment, which makes it possible for the roll to be easily handled and fed from an automatic machine for bagging food products such as bread. If the strip 40 is continuous, the bagging machine may include a cutting blade mechanism (not shown) for separating the strip into individual closure clips prior to when the clips are applied.

The use of the stamping step to create tabs 42 that are breaking zones provide the advantage of permitting the clamping devices to be stored in a coil as a single connected grouping by adding lateral flexibility so as to permit separation when needed. Applicant is reminded that "[I]n considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." *In re Preda*, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

As it would be advantageous to concatenate the fasteners of D'Eugenio for ease of storage as a single unit so as to permit separation and completion of the fabrication by then applying the biasing spring, it would have been obvious to modify the process taught by

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D'Eugenio such that there is stamping of predetermined breaking points into the length of extruded plastic as taught by Parmenter to be desirable wherein the use of the stamping step to create tabs 42 that are breaking zones provide the advantage of permitting the clamping devices to be stored in a coil as a single connected grouping by adding lateral flexibility so as to permit separation when needed. In regard to claim 34, D'Eugenio generates the biasing force by pressing the half-profiles of the clamping devices by the coil spring.

Claims 33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Eugenio (US 3832757) in view of Parmenter (US 3818553) as applied to claim 12 above, and further in view of Brown (US 5301393).

Further modification of the process taught by D'Eugenio such that the biasing force is created generated by spreading apart a pincer portion of the clamping devices and wherein latching profiles which fit into each other are extruded to form a snap connection between half-profiles in a transition area would have been obvious in view of Brown (figure 11, reproduced below) who teaches the use of extrusion to form half-profiles 102, 104 wherein it is desirable to create the biasing force by use of a spring 108 spreading apart the pincer portions of the half-profiles so that the jaws are forced together as being a desirable step in the process of making a clip by extrusion so as to have a generation of the biasing force and to utilize a snap connection between the two half-profiles created in the extrusion process so as to more easily fasten the half-profiles together (col. 6, lines 10-55, reproduced below).

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10 Another embodiment of the spring biased clip 100 according to the present invention is shown in FIG. 10. The clip 100 comprises clamping elements 102, 104 hingedly connected together by hinge 106 in combination with a cantilever spring 108.

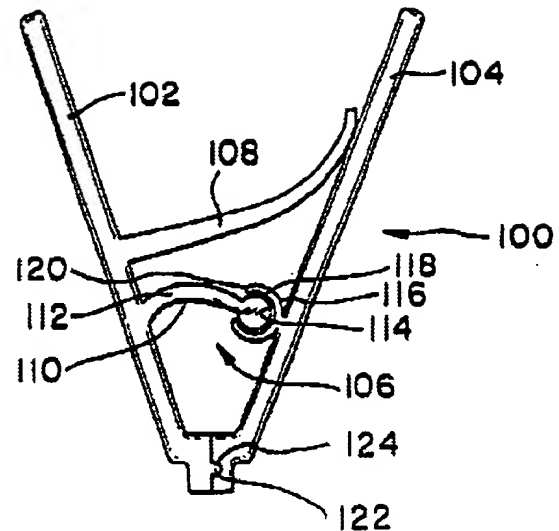
15 The hinge 106 comprises male portion 110 defined by a protrusion 112 extending from the rear of clamping element 102, and a male end 114 positioned at the end of protrusion 112. The hinge 106 further comprises a female portion 116 defined by a socket 118 extending from the rear of clamping element 104. The end 114 of the male portion 110 is received within the socket 118 of the female portion 116.

The hinge 106 is designed to connect the clamping elements 102, 104 together during storage and operation of the clamp. However, the clamping elements could be stored disassembled. The hinge is preferably of a snap connection design in order to allow easy and quick assembly of the clamping elements. The male and female snap connections arrangement shown in FIG. 10 is the preferred snap connection arrangement that can be successfully used in this embodiment, however, other snap connection arrangements can be substituted.

In the male and female snap connections arrangement shown in FIG. 10, the protrusion 112 and end 114 of the male portion 110 form an elongated extension in the direction of extrusion. Likewise, the socket 118 of the female portion 116 forms an elongated receiving slot in the direction of extrusion. Thus, the extruded base material can be simply extruded to any length, depending on the application such as various widths plastic bags to be clamped, and then cut to the appropriate length and assembled.

The outer diameter of the male end 114 is substantially the same as the inner diameter of the socket 118. Further, the opening 120 into the socket 118 is selected to allow the male end 114 to forcibly pass through the opening 120 during assembly of the snap connection. Specifically, the dimensions of the opening are selected so that the male end 114 resiliently biases the portions of the sockets immediately positioned at the opening 120 apart to allow insertion of the male end 114 into the socket 118. Further the opening 120 is sufficiently wide to allow angular rotating of the male end 114 supported by protrusion 112 during pinching the clamp open to allow adequate pivoting.

FIG. 11



### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on M, W & F 5:30-1:30, T 5:30-2:00 & TH 5:30-4:00.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB